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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/597,229	11/28/2007	Giovanni Fiaschi	4015-5831 / P/63966/GPTX1	8005
24112 7590 03/10/2010 COATS & BENNETT, PLLC 1400 Crescent Green, Suite 300 Cary, NC 27518			EXAMINER NGUYEN, STEVEN H D	
			ART UNIT 2473	PAPER NUMBER
			MAIL DATE 03/10/2010	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.		Applicant(s)	
	10/597,229		FIASCHI ET AL.	
	Examiner		Art Unit	
	Steven HD Nguyen		2473	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 17 July 2006 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim(s) 9-17 is/are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. While the claims recite a series of steps or acts to be performed, a statutory "process" under 35 U.S.C. 101 must (1) be tied to particular machine, or (2) transform underlying subject matter (such as an article or material) to a different state or thing. See page 10 of In Re Bilski 88 USPQ2d 1385. The instant claims are neither positively tied to a particular machine that accomplishes the claimed method steps nor transform underlying subject matter, and therefore do not qualify as a statutory process. The method including steps of as stated in the claims are broad enough that the claim could be completely performed mentally, verbally or without a machine nor is any transformation apparent.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 9-18 rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a method and system , does not reasonably provide enablement for comparing the allocation of resources and services on a network with a desired new allocation, estimating the feasibility of the desired allocation, calculating a feasible allocation which would best approximate the one desired and reorganizing the new routings calculated such as a comparison between an old and a new routing, is to provide a procedure for finding a feasible routing which would be best for using in the routing. The specification does not enable any person skilled in the art to

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which it pertains, or with which it is most nearly connected, to make or use the invention commensurate in scope with these claims. The specification does not disclose how to reroute a network because only packet, frame, message can be rerouted in the network via from old path to new path; a circuit has a cost because cost is a parameter of link between the nodes and replacing a circuit with another circuit movements to reroute the network because circuit is a node or fiber which is fixed . The rejection is based on the best understood by the examiner.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 9-18 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. The recitations "circuit" and "circuit movement" are vague and indefinite because it's unclear what it is constituted for. Please clarify, so the meter and boundary of the claims can be determined.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 9-18 rejected under 35 U.S.C. 102(b) as being anticipated by Chaporkar (US 20040083277).

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10. As claims 1 and 18, Chaporkar discloses a method and system for reconfiguring a telecommunications transport network after addition or removal of a network resource (reconfigures the network after a link or node fails), the method comprising identifying a series of single circuit movements to re-route a network from a set of n actual circuits CA each satisfying a corresponding demand R to a set of feasible intermediate circuits CI which continue to satisfy the demands R and which best approximate a series of target circuits CT (Fig 1 discloses a method and system for obtains the restore routes between the source and destination pairs and identifying the least cost between the routes of the source and destination) comprising (a) initializing the circuit set CI to CA (Fig 1, 206); (b) for each demand R still to be processed (i) calculating one or more candidate replacement circuits CI each candidate replacement circuit CI satisfying the demand R_i and having a lower cost difference with respect to the corresponding target circuit CT than the current circuit CI satisfying the demand R_i (Fig 210); (ii) replacing the current circuit CI with the candidate replacement circuit CI having the least cost difference (Fig 1, 214); and (iii) marking the demand R as having been processed (Fig 1, 216); and (c) identifying the sequence with which circuits CI were replaced as the series of single circuit movements to re-route the network (Fig 1, 216, the route from source to destination which has a least cost).

As claim 10, Chaporkar discloses wherein each circuit comprises one or more legs connecting two or more nodes (Fig. 1) wherein calculating the cost difference of a circuit with respect to a target circuit comprises summing the costs of the legs of the

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circuit that do not overlap (i.e., that are disjoint) with the legs of the target circuit (Fig 1, 214 bellman ford method inherently disclose the cost is summed on the disjoint links).

As claim 11, Chaporkar discloses calculating the cost difference comprises excluding a cost associated with an unused leg of the target circuit (Fig 1, 214 bellman ford method inherently excludes a cost of the links that does not belong to the route from the source and destination).

As claim 12, Chaporkar discloses wherein the cost of a circuit is the sum of the cost of each circuit leg (Fig 1, 214).

As claim 13, Chaporkar discloses determining whether take the sequence with which circuits CI have been replaced as the series of single circuit movements to re-route the network, or whether to repeat step (b) using the current set of feasible intermediate circuits (Fig 1, 214 is inherently disclosed if the route between the source and destination is not optimum then recalculating until obtaining a minimum route).

As claim 14, Chaporkar discloses the determined based on the overall difference in cost between the actual circuits and the feasible intermediate circuits (Fig 1, 210 and 214).

As claim 15, Chaporkar discloses determined based on the overall difference in cost between the feasible intermediate circuits and the target circuits (Fig 1, 210 and 214).

As claim 16, Chaporkar discloses providing the identified sequence of single circuit movements to a network manager for implementation on the network (Fig 1, 220).

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As claim 17, Chaporkar discloses performing the identified sequence of single circuit movements on a network by the network manager (Fig 1).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven HD Nguyen whose telephone number is (571) 272-3159. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yao Kwang can be reached on (571) 272-3182. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

3/10/2010

/Steven HD Nguyen/

Primary Examiner, Art Unit 2473